

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

JOSEPH BOWLER,

Plaintiff-Appellee,

v.

S. K. YOUNG, Warden; A. P.

HARVEY, Operations,

Defendants-Appellants.

No. 02-7045

Appeal from the United States District Court
for the Western District of Virginia, at Roanoke.
James C. Turk, District Judge; Glen E. Conrad, Magistrate Judge.
(CA-01-800)

Submitted: November 26, 2002

Decided: January 31, 2003

Before WILKINS, MOTZ, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

COUNSEL

Pamela Anne Sargent, Assistant Attorney General, Richmond, Virginia, for Appellants. Joseph Bowler, Appellee Pro Se.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

S.K. Young and A.P. Harvey, defendants in a 42 U.S.C. § 1983 action, appeal from the magistrate judge's order requiring them to file responsive pleadings and the district court's order granting their motion to dismiss for plaintiff's failure to exhaust administrative remedies under 42 U.S.C. § 1997e(a) (2000). Young and Harvey complain that they have wasted resources in complying with the court's request, which has denied them due process. They have also charged the district court with a "continued unwillingness to give full effect to § 1997e(a)."

In order for a federal court to exercise jurisdiction over an action, the dispute must satisfy the case or controversy requirement of Article III of the Constitution. *White v. Nat'l Union Fire Ins. Co.*, 913 F.2d 165, 167 (4th Cir. 1990). A case or controversy exists if the dispute is "definite and concrete, touching the legal relations of parties having adverse legal interests." *Aetna Life Ins. Co. v. Haworth*, 300 U.S. 227, 240-41 (1937). The controversy must be curable by specific relief through a conclusive decree, and the court may not issue what amounts to an advisory opinion on what the law would be under a hypothetical set of facts. *Id.*

Here, Young and Harvey ask this Court to issue an advisory opinion informing the district court as to how it should proceed in future cases. This request fails to state a justiciable case or controversy. Therefore, we dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED